

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA

V.

CAUSE NO.: 2:09-CR-001-GHD-DAS

JIMMY STOKES

ORDER

Defendant filed a Motion for Bond pending appeal of the order revoking his supervised release [164].

After multiple hearings, the Court found that Stokes violated his supervised release by willfully failing to pay restitution and failing to disclose financial information as required by the conditions imposed at sentencing. On September 8, 2017, Stokes was sentenced to twenty-four months imprisonment. Thereafter, Stokes filed a Notice of Appeal, appealing the Amended Judgment and sentence [162]. This matter presently comes before the Court on Defendant's motion for bond pending appeal of the order revoking his supervised release.

Defendant bases his motion for release pending appeal on 18 U.S.C. § 3141(b) and 3143(b). However, the standards for release set forth in 18 U.S.C. § 3143(b) are not applicable to appeals from orders revoking supervised release. *United States v. Lodhi*, 21 F.3d 606 (5th Cir. 1994). The provisions set the standards for a release pending appeal from a conviction but do not encompass an appeal from an order revoking probation. *United States v. Lacy*, 643 F.2d 284 (5th Cir. 1981). "The standard for release pending appeal from the latter is considerably stricter. Release will be granted only upon a showing of exceptional circumstances." *Id.* (citing *Baker v. Sard*, 420 F.2d 1342, 1343 (D.C. Cir. 1969)). "Examples of such circumstances include the raising of substantial claims upon which the appellant has a high probability of success, a serious deterioration of health while incarcerated, and any unusual delay in the process of the appeal." *Id.* (citing *Calley v.*

Callaway, 496 F.2d 701, 702 & n.1 (5th Cir. 1974); *Glynn v. Donnelly*, 470 F.2d 95, 98 (1st Cir. 1972)). Defendant has failed to assert such exceptional circumstances.

Though the Defendant believes that the issue being presented before the Fifth Circuit is novel, this Court does not consider his appeal to carry a high probability of success. Therefore, as Defendant has not asserted the exceptional circumstances warranting his release pending appeal, the Motion for Release is DENIED.

SO ORDERED this the 24th day of October, 2017.

/s/ Sharion Aycock
UNITED STATES DISTRICT JUDGE